

Honorable City Planning Commission
Cincinnati, Ohio

March 3, 2006
March 17, 2006
BY- LEAVE April 21, 2006
August 4, 2006
September 1, 2006

SUBJECT: Proposed text amendment to §1419-21. Limited or Full Service Restaurant.

PURPOSE:

To obtain input and direction from the Planning Commission on zoning text as it relates to outdoor areas of limited or full service restaurants and/or drinking areas.

PROPOSED TEXT AMENDMENT:

§ 1419-21. Limited or Full Service Restaurants and Drinking Establishments.

Outdoor ~~eating~~ areas of limited or full service restaurants and drinking establishments must be located, developed and operated in compliance with the following:

- (a) Residential District Boundary Line. For the purposes of this section the term "residential district boundary line" shall mean the district boundary line of the SF-20, SF-10, SF-6, SF-4, SF-2, RMX, RM-2.0, RM-1.2, and RM-0.7 districts.
- (b) **Location.** Outdoor ~~eating~~ areas on any public sidewalk or alley requires a revocable street privilege. Any outdoor area located within 150 100 feet of a residential district boundary line requires conditional use approval pursuant to the procedures and criteria of Chapter 1445. Variances, Special Exceptions and Conditional Uses.
- (c) **Maximum Size.** ~~Within 150 feet of a residential district boundary line the outdoor area may not exceed 25% of the indoor area accessible to the public and within 500 feet of a residential district boundary line. The outdoor eating area may not exceed 25 50 percent of the indoor eating area accessible to the public. Within 500 feet of a residential district boundary line, the outdoor eating area may not exceed 25 50 percent of the indoor eating area accessible to the public, excluding other space not accessible to the public.~~ Additional area requires conditional use approval

pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.

- (d) **Barriers.** Decorative walls or fencing must enclose an outdoor ~~eating~~ area.
- (e) ~~**Alcoholic Beverages.** The provision of alcoholic beverages must be secondary and accessory to the provision of food.~~
- (f) ~~**Cooking Facilities.** Cooking facilities may not be located in outdoor eating areas.~~
- (g) ~~**Live Entertainment.** Live entertainment may not be presented in outdoor eating areas.~~ Within 500 feet of a residential district boundary line, entertainment, including the use of audio/visual equipment or amplified sound is prohibited unless conditional use approval is obtained pursuant to the procedures and criteria of Chapter 1445, Variance, Special Exceptions and Conditional Uses.
- (h) **Fixtures.** Furniture and fixtures provided for use in an outdoor eating area may consist only of movable tables, chairs, umbrellas, planters, lights and heaters. Lighting fixtures may be permanently affixed onto the exterior front of the building. All movable furniture and fixtures must be removed during the off-season.
- (i) **Hours of Operation.** ~~Within 150-~~ 100 feet of a residential district boundary line ~~The use of outdoor eating areas is prohibited between 11 40~~ Midnight PM and 7 AM on ~~weekends~~ Friday and Saturday and ~~10 -9- 10~~ PM and 7 AM on ~~weekdays on all other days unless conditional use approval is obtain pursuant to Chapter 1445 Variance, Special Exception and Conditional Uses. In all other locations, the use of outdoor areas shall be prohibited after 2:00 AM.~~
- (j) **Breweries and Wineries.** Beer and wine production accessory to a limited or full service restaurant is limited to an area that may not exceed 10,000 sq. ft and may not produce any objectionable odor, dust or fumes.
- (k) **Required Buffer Yards.** Where any side or rear yard of the permitted use abuts a residential district boundary line, a 10 foot buffer area ensuring visual and sonic separation shall be provided.pursuant to Chapter 1423-03 Landscaping Plan.
- (l) **Parking Requirements for Outdoor Areas.** Off-street parking shall be calculated at 1 space per 300 square feet of outdoor floor area. Off-street parking facilities must be made permanently available to the use served.

JUSTIFICATION:

On December 16, 2005 the Planning Commission (CPC) made recommendations to City Council on text changes to the Zoning Code for the regulation of outdoor eating and drinking areas. The Economic Development Committee of City Council held a public meeting on February 6, 2006 on the text changes as approved by the CPC. Based on comments received during the public meeting, revised text changes were submitted by Councilmember Chris Bortz and Councilmember David Crowley for consideration by the Planning Commission. The Planning Commission tabled the changes proposed by Councilmember Bortz and Councilmember Crowley at the March 3, 2006 meeting until a meeting could be scheduled to discuss the impact of the proposed changes. Text amendments resulting from the meeting with the Councilmembers, Planning staff and Planning Commission Chair, Caleb Faux were submitted to the Planning Commission for consideration at the March 17, 2006 meeting. The Planning Commission did not recommend approval of the text amendments as proposed. Instead, the Commission further revised the sections on Location, Maximum size, and Hours of Operation before recommending approval of the text amendments to §1419-21 of the Zoning Code. These revised text amendments were submitted to the Economic Development Committee for a public hearing on April 17, 2006. Councilmember Bortz and Councilmember Crowley requested that additional revisions to the text amendments be submitted to the Planning Commission as a By-Leave item at the April 21, 2006 meeting. These text amendments were the same amendments that were submitted to the Planning Commission at the March 17, 2006 meeting with one exception. The Hours of Operation were changed from 10:00 PM to Midnight on Friday and Saturday and from 9:00 PM to 10:00 PM on all other days. Again the Planning Commission did not approve the text amendments as proposed by the Economic Development Committee. Instead the Planning Commission made three changes to the proposed amendments as follows:

1. **Location.** The Planning Commission added to this section the following language: Any outdoor area located within 150 feet of a residential district boundary line requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.
2. **Maximum Size.** The proposed text amendment permitted the size of outdoor areas within 500 feet of a residential district boundary line to be 50% of the indoor area accessible to the public. The Planning Commission changed this section such that the allowable size of outdoor areas within 150 feet of a residential district boundary line could be 25% of the indoor area accessible to the public and outdoor areas within 500 feet of a residential district boundary line could be 50% of the indoor area accessible to the public.

3. **Hours of Operation.** The proposed text amendment prohibited the use of outdoor areas within 50 feet of a residential district boundary line between the hours of Midnight and 7AM on Friday and Saturday and between the hours of 10 PM and 7 AM on all other days. The Planning Commission increased the distance between outdoor areas and a residential district boundary line to 150 feet. The hours of operation were approved as proposed.

The Economic development Committee did not approved the text amendments with these three changes. The major differences between the versions approved by the Planning Commission and the Economic Development Committee are the **Location** section and the **Maximum Size** section. The Planning Commission's version proposes that outdoor areas within **150** feet of a residential district boundary line obtain a conditional use approval while the Economic Development Committee's version proposes that outdoor areas within **50** feet of a residential district boundary line obtain a conditional use approval. The current version before the CPC compromises the distance at **100** feet.

Additionally, the Economic Development Committee's version permitted outdoor areas within 500 feet of a residential district boundary line to be 50% of the indoor area accessible to the public with the option of a conditional use approval for larger outdoor areas. The Planning Commission's version restricted outdoor areas within 150 feet of a residential district boundary line to 25% of the indoor areas accessible to the public and outdoor areas within 500 feet of a residential district boundary line to 50% of the indoor areas accessible to the public. The current version before the CPC is the same as the Economic Development Committee's proposal.

Submitted by:

Margaret Wuerstle
Chief Planner

NOTICE OF PROPOSED TEXT AMENDMENT

CITY PLANNING COMMISSION

September 1, 2006

9:00 a.m.

On **Friday, September 1, 2006** the City Planning Commission will consider a text amendment to Section 1419-21 of Chapter 1419 of the Cincinnati Zoning Code: **Limited or Full Service Restaurant**

This meeting will begin at 9:00 a.m., in the J. Martin Griesel Room on the seventh floor of Two Centennial Plaza, 805 Central Avenue, Cincinnati, Ohio, 45202.

Comments and/or questions may be directed to:

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